

REMARKS

The Office Action of December 4, 2006 has been carefully considered. The rejections set forth in prior actions have been withdrawn in favor of a rejection over newly discovered prior art.

Reconsideration of this application, as amended, is respectfully requested. Claim 11 has been amended for purposes of clarification and are now believed to be in condition for allowance.

Turning now, to the office action, Applicants acknowledge that claims 1-5, 7, 9 and 10 are allowed. Claims 12, 13 and 15-17 were objected to as being dependent upon a rejected base claim, but allowable as amended to include the limitations of the base and any intervening claims. Claims 11 and 14 were rejected under 35 U.S.C. §102(b) as being anticipated by 4,103,562 to Boser. Claim 14 was further rejected under 35 U.S.C. §102(b) as being anticipated by 5,724,085 to Inui et al. ("Inui")

35 U.S.C. §102(b) rejection as being anticipated by Boser is respectfully traversed

Boser, directed an apparatus for sewing, particularly an apparatus for sewing slide fastener chain to openings of articles, does not disclose a lift pulley, let alone a line wound on a lift pulley or the sensing of the slack and end conditions of such line. Although Applicants disagree with the Examiner's characterization of the holding of Ex Parte Masham (MPEP §2114 states, "[a] claim containing a 'recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus' if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987)" (underlining added)), Applicants have nonetheless amended claim 11 to clarify the relationship set forth amongst the recited elements.

In light of Boser's failure to teach "a slack sensor, operatively associated with the lift pulley..." and "an end sensor, also operatively associated with the lift pulley..." Applicants respectfully urge that Boser cannot anticipate claim 11. Accordingly, claim 11 is respectfully submitted to be in condition for allowance.

Relative to the rejection of claim 14, Applicant first notes that *Ex parte Masham* appears inapplicable to method claims as it deals with the treatment of intended use in apparatus claims – claim 14 is directed to “[a] method for monitoring the condition of a line wound on a lift pulley.” Second, Applicants submit that the Examiner has failed to set forth a basis for the alleged inherency relied upon to reject claim 14. In the event that inherency is used as a basis for a rejection, it is incumbent upon the Examiner to set forth “a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)” (MPEP §2112). Absent such a showing, anticipation based upon inherency must fail.

Boser’s failure to teach the recited method, sensing the slack or end of a line wound on a lift pulley, indicates that the rejection of claim 14 is improper. Accordingly, claim 14 is respectfully submitted to be in condition for allowance and the rejection is traversed. The rejection of claims 11 and 14 having been traversed, all claims dependent therefrom are also respectfully submitted to be in condition for allowance.

35 U.S.C. §102(b) rejection as being anticipated by Inui is respectfully traversed

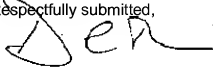
Claim 14 was also rejected under 35 U.S.C. §102(b) as being anticipated by 5,724,085 to Inui. In light of the arguments presented above relative to claim interpretation (and the inapplicability of *Ex parte Masham*), Applicants respectfully urge claim 14 is not anticipated by Inui (sensing slack of a recording sheet). Inui, directed to a color thermal printer and a color thermal printing method, fails to disclose monitoring the slack condition of a line wound on a pulley with a slack sensor or monitoring the length of line to determine when a predetermined maximum length of line has been unwound. Thus, the rejection of claim 14 as being anticipated by Inui is respectfully traversed, and claim 14 is urged to be in condition for allowance. The rejection of claim 14 having been traversed, all claims dependent therefrom are also respectfully submitted to be in condition for allowance for the reasons hereinbefore discussed with regard to claim 14.

In view of the foregoing remarks and amendments, reconsideration of this application and allowance thereof are earnestly solicited. In the event that additional fees are required as a result of this response, including fees for extensions of time, such fees

should be charged to USPTO Deposit Account No. 50-2737 for Basch & Nickerson LLP.

In the event the Examiner considers personal contact advantageous to the timely disposition of this case, the Examiner is hereby authorized to call Applicant's attorney, Duane C. Basch, at Telephone Number (585) 899-3970, Penfield, New York.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Basch', with a long horizontal flourish extending to the right.

/Duane C. Basch, Esq. Reg. No. 34,545/

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